



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/198,607	11/24/98	SMILEY	J 10-133US

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AIR MAIL

EXAMINER

HEALY, B

ART UNIT

PAPER NUMBER

2874

DATE MAILED: 05/18/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/198,607

Applicant(s)

SMILEY ET AL.

Examiner

Brian M. Healy

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6, 9, 11, 15-17 and 20 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 7, 8, 12-14, 18 and 19 is/are objected to.
- 8) ☐ Claims ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some * c) ☐ None of the CERTIFIED copies of the priority documents have been:
1. ☐ received.
2. ☐ received in Application No. (Series Code / Serial Number) ____.
3. ☐ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

- 18) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: *Brian Healy*

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DETAILED ACTION

Drawings

1. The drawings are objected to because of the reasons stated in the attached letter PTO-948. Correction is required.

Allowable Subject Matter

2. Claims 4,5,7,8,10,12-14, 18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3,6,9,11,15-17, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Hayata, Japanese Pat. Appl. No.4-317009.

Hayata '009 teaches (Figs.1-3) an optical attenuator device and a method of attenuating light using same comprising: a pair of optical fiber 10,19 and GRIN lenses 11,18 between which

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propagates a circular beam of light having a line of symmetry which is interrupted by a beam attenuating member made of an isosceles triangle prism 14,12,17 defining a region having two substantially equal sides defining an angle therebetween of between 0 to 180 deg, with the two sides having a central line of symmetry coincident with a line of symmetry through the centre of the circular light beam with the angle moving the light beam line of symmetry (Note that the use of a controller for moving the attenuating member is clearly implied even though it is not shown; the use of light detectors are also implied, but not shown), which clearly, fully meets applicant's claimed limitations.

A copy of PTO-1449 will be included in this office action.

The following references are also cited as being pertinent art: Takahashi, U.S.P. No.5,136,681(Figs.1-7), Kaiser et. al., U.S.P. No.4,591,231(Fig. Shown), Cahill et. al., U.S.P. No.5,481,631(Figs.1-2), and Hasumi, (Jap. Pat. Off. No.55-73002)(Figs.1-4).

Any questions concerning this office action should be directed to:

Brian M. Healy

Primary Examiner

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Phone:(703)308-2693



Brian Healy
Primary Examiner